



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

May 19, 2014

REVIEW OF NOMINATING PETITION

Delicia Taylor Coleman
Candidate for Circuit Court Judge, 3rd Circuit
Incumbent Position – Partial Term Ending Jan. 1, 2019

NUMBER OF VALID SIGNATURES REQUIRED: 4,000 signatures.

TOTAL FILING: 5,341 signatures.

RESULT OF FACE REVIEW: 4,636 face valid signatures; 705 invalid signatures.

Total number of signatures filed:	5,341
Signature improperly dated:	- 164
Address errors (incomplete or incorrect address):	- 37
Jurisdiction errors (no city/twp by that name in county):	- 148
Heading errors (incorrect office designation):	- 71
Circulator errors (incomplete or incorrect date, address, or jurisdiction of registration):	- 196
Signature issues (incomplete signature "Jane," "John," etc. or signature did not match):	- 23
Miscellaneous errors (two jurisdictions listed):	- <u>66</u>
Face valid signatures:	4,636

TOTAL NUMBER OF SIGNATURES QUESTIONED UNDER CHALLENGE: 1,818 signatures challenged for duplicates, registration and address errors.

ANALYSIS OF CHALLENGE: Challenges against 571 signatures overlapped face review; 971 additional signatures determined invalid, 3,665 determined valid.

Total number of signatures filed:	5,341
Signatures discounted under face review:	- 705
Signatures discounted under challenge:	
Signer not registered:	- 786
Duplicate signatures within the filing:	- 80
Circulator errors (circulator not registered to vote in jurisdiction indicated in certificate of circulator):	- <u>105</u>
Valid signatures after challenge:	3,665

FINAL RESULT: 3,665 valid signatures.

Total number of signatures filed:	5,341
Signatures discounted under face review:	- 705
Signatures discounted under challenge:	- <u>971</u>
Total valid signatures:	3,665

STAFF RECOMMENDATION: Determine petition insufficient.

SUMMARY OF CHALLENGES: Ms. Coleman drew two challenges asserting that the nominating petitions she filed contained an insufficient number of valid signatures. The first challenge was filed by Susan Brams; the second challenge was filed by Symantha Heath. As a result of Ms. Brams' challenge, the Bureau of Elections finds that Ms. Coleman's petition contains an insufficient number of valid signatures to qualify for placement on the ballot.

Brams challenge: Ms. Brams' challenge identifies 1,818 signatures that she asserts are invalid for reasons that include signers who are not registered to vote in the 3rd Judicial Circuit, incomplete or incorrect addresses, duplicate signatures, invalid dates, and so on. In addition, Ms. Brams alleges that the filing included four sheets that appear to contain forged signatures. As a result of Ms. Brams' challenge, the Bureau of Elections finds that Ms. Coleman's nominating petition contains an insufficient number of valid signatures.

Heath Challenge: If a judicial candidate seeks election in a district where there are a combination of "new," "incumbent," or "non-incumbent" positions to fill, the Bureau of Elections must issue "a written statement of office designation to correspond to the judgeship sought by the candidate." MCL 168.424a(5). Nominating petitions circulated by a judicial candidate must include the correct office designation in the heading; petitions with non-conforming headings are invalid. MCL 168.424a(2). For the Third Circuit, the Bureau of Elections listed three partial term positions that shared the term ending date of January 1, 2019 as follows:

2 Partial Term – Incumbent Positions (term ending Jan. 1, 2019)
1 Partial Term – Non-Incumbent Position (term ending Jan. 1, 2019)

These designations were valid until the Bureau of Elections issued a memorandum explaining the redesignation of these partial term positions on April 16, 2014.¹ The redesignation of these positions from that time through the April 22, 2014 filing deadline is:

4 Partial Term – Incumbent Positions (term ending Jan. 1, 2019)

The redesignation of these positions was necessitated by two events. First, the resignation of former Circuit Judge Linda Parker in March triggered a previously unscheduled election in 2014 to fill the remainder of her unexpired term, and gave the Governor an opportunity to make an appointment to fill the vacancy until January 1, 2015. MCL 168.424. Shortly after Judge Parker's resignation, Governor Snyder appointed Judge Catherine Heise to fill the vacancy. As a result, one "Partial Term – Incumbent Position (term ending Jan. 1, 2019)" was added to the ballot in 2014, bringing the total number of partial terms that share the same term ending date to four.

¹ http://www.michigan.gov/documents/sos/Redesignated_Judicial_Positions_2014_w_Redesignations_451621_7.pdf?20140519140200

Second, former Circuit Judge Amy Hathaway resigned, triggering an election in 2014 to fill the remainder of Judge Hathaway's unexpired term. MCL 168.424. Due to Judge Hathaway's resignation the Bureau listed the following designation for the position, effective March 21, 2014: "1 Partial Term – Non-Incumbent Position (term ending Jan. 1, 2019)." On April 16, 2014, Governor Snyder appointed Judge Thomas Cameron to fill the vacancy. Judge Cameron's appointment converted this judgeship from a non-incumbent to an incumbent position, effective April 16, 2014. Thus, from March 21 until the date of Judge Cameron's appointment, the position formerly occupied by Judge Hathaway was correctly designated as a "Partial Term – Non-Incumbent Position (term ending Jan. 1, 2019)."

For the most part Ms. Coleman's nominating petitions correctly tracked the changes in office designation for the position she sought. The small number of sheets containing an incorrect office designation in the heading (8 sheets containing 71 signatures) were determined by the Bureau of Elections to be invalid during face review.

Ms. Heath asserts that *every* nominating petition sheet Ms. Coleman circulated should have contained the heading, "Partial Term – Incumbent Position (term ending Jan. 1, 2019)," based on the fact that two incumbent judges timely filed Affidavits of Candidacy to seek re-election (Judges Hegarty and Lilliard), and Governor Snyder's appointees timely filed their Affidavits of Candidacy (Judge Cameron, who filed on April 15, and Judge Heise, who filed on April 16).

However, during the period that elapsed between the date that Judge Hathaway announced her impending resignation (March 21) until the date that Judge Cameron was appointed as her successor (April 16), the correct office designation was "Partial Term – *Non-Incumbent* Position," because there was no incumbent who sought re-election to that particular position. In addition, the positions of the two incumbents (Judges Hegarty and Lilliard) were listed separately as required by MCL 168.424a(1)(a) ("In the primary and general election for 2 or more judgeships of the circuit court, each of the following categories of candidates *shall be listed separately on the ballot* ... (a) The names of candidates for the judgeship or judgeships for which the incumbent is seeking election. (b) The names of candidates for an existing judgeship or judgeships for which the incumbent is not seeking election.")

In sum, Ms. Coleman's petitions by and large complied with the office designation requirements of MCL 168.424a, and the 8 noncompliant sheets were found invalid during face review.

Coleman response: Ms. Coleman denies that her petition contains an insufficient number of valid signatures and disputes Ms. Brams' findings with respect to unregistered signers. Bureau staff carefully examined the disputed signatures and found that many of the unregistered signers identified by Ms. Brams were indeed not registered to vote or not registered to vote in the jurisdiction listed on the petition.

In addition, Ms. Coleman alleges that she filed 58 more sheets than the Bureau actually received and asks that the Board take these additional sheets into account. She provided copies of the 58 sheets in question on May 14, 2014; the Bureau carefully reviewed each sheet and found:

- 1) None of the sheets submitted on May 14, 2014 included a completed certificate of circulator, which is a fatal defect; and
- 2) Every one of the 58 sheets was actually included in the original filing tendered April 22, 2014, the only difference being that the filed sheets were executed by circulators.

In sum, the Bureau did not lose 58 sheets Ms. Coleman claims she filed on April 22.